

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DWAYNE L. DYE,

Plaintiff,

Case No. 14-cv-11252

Hon. Matthew F. Leitman

v.

CITY OF ROSEVILLE et al.,

Defendants.

ORDER ADOPTING REPORT AND RECOMMENDATION (ECF #18)
AND GRANTING DEFENDANTS' MOTION TO DISMISS (ECF #13)

On March 23, 2014, Plaintiff Dwayne L. Dye (“Dye”) filed a *pro se* civil rights Complaint against Defendants the City of Roseville, Roseville Chief of Police James P. Berlin, and a Roseville police officer identified only as “Sargent Witherspoon” (collectively the “Defendants”). (*See* Complaint, ECF #1.) Dye’s Complaint includes four counts: “Malicious and Selective Prosecution” (*see id.* at ¶¶35-39), “Intentional Spoliation of Evidence” (*see id.* at ¶¶40-46), “Negligent Hiring, Training, Supervision and Retention” brought against Defendant City of Roseville only (*see id.* at ¶¶47-53), and “Violation of the Michigan Tort Claims Act” (*see id.* at ¶¶54-58.) In lieu of filing an Answer to Dye’s Complaint, Defendants filed a motion to dismiss Dye’s Complaint pursuant to Federal Rule of Civil Procedure 12(b)(6). (*See* ECF #13.)

On November 21, 2014, Magistrate Judge Michael Hluchaniuk issued a Report and Recommendation (the “R&R”) recommending that the Court grant Defendants’ motion to dismiss in its entirety due to Dye’s failure to state any cognizable claims in his Complaint against the Defendants. (*See* ECF #18.) The R&R stated that the parties could object to and seek review of the recommendation within fourteen days. (*See id.* at 21-22, Pg. ID 220-221.) The parties were instructed that “[a]ny objection must recite precisely the provision of this [R&R] to which it pertains.” (*Id.* at 21, Pg. ID 220.)

Neither party has objected to the R&R. As the Magistrate Judge specifically informed the parties (*see id.*), failure to file objections to the R&R waives any further right to appeal. *See Howard v. Sec'y of Health and Human Servs.*, 932 F.2d 505 (6th Cir. 1991); *Smith v. Detroit Fed'n of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). Likewise, the failure to object to the Magistrate Judge’s R&R releases the Court from its duty to independently review the matter. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985). The Court has nevertheless reviewed the R&R and agrees with the findings and conclusions of the Magistrate Judge.

Therefore, **IT IS HEREBY ORDERED** that the Magistrate Judge's November 21, 2014, R&R (ECF #18) is **ADOPTED** as the Opinion of this Court.

IT IS FURTHER ORDERED, for the reasons stated in the R&R, that Defendants' May 1, 2014 Motion to Dismiss (ECF #13) is **GRANTED**.

s/Matthew F. Leitman

MATTHEW F. LEITMAN

UNITED STATES DISTRICT JUDGE

Dated: December 16, 2014

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on December 16, 2014, by electronic means and/or ordinary mail.

s/Holly A. Monda

Case Manager

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